

House Bill 1022

By: Representatives Porter of the 143<sup>rd</sup>, Smyre of the 132<sup>nd</sup>, Gardner of the 57<sup>th</sup>, Buckner of the 130<sup>th</sup>, Thomas of the 100<sup>th</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, so as to change certain provisions relating to definitions relative to comprehensive state-wide water management planning; to change certain provisions relating to a policy statement for comprehensive state-wide water management planning, guiding principles, and requirements of a plan; to provide for water planning regions corresponding to river basins; to change certain provisions relating to rules and regulations relative to water conservation plans; to change certain provisions relating to permits for withdrawal, diversion, or impoundment of surface waters generally and for farm use; to change certain provisions relating to permits to withdraw, obtain, or use ground water; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**PART I.**

**SECTION 1-1.**

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by revising Code Section 12-5-521, relating to definitions relative to comprehensive state-wide water management planning, as follows:

"12-5-521.

As used in this article, the term:

(1) 'Basin' means the land area that drains into a river.

~~(1)~~(2) 'Director' means the director of the Environmental Protection Division of the Department of Natural Resources.

~~(2)~~(3) 'Division' means the Environmental Protection Division of the Department of Natural Resources.

(4) 'River' means the Altamaha, Chattahoochee, Coosa, Flint, Ochlockonee, Ocmulgee, Oconee, Ogeechee, Satilla, Savannah, St. Marys, Suwannee, Tallapoosa, or Tennessee River.

(3)(5) 'Water Council' means the Water Council created by Code Section 12-5-524."

## SECTION 1-2.

Said chapter is further amended in Code Section 12-5-522, relating to a policy statement for comprehensive state-wide water management planning, guiding principles, and requirements of a plan, by adding a new subsection (b.1) to read as follows:

"(b.1) For purposes of any state-wide water plan pursuant to this article, there shall be a separate water planning region for each river basin in this state, and the geographical boundaries of each water planning region shall coincide with the geographical boundaries of its corresponding river basin in its entirety. Any regional water plan shall be developed for and apply to the corresponding river basin in its entirety, including surface water and ground water within the river basin. Any plan or plans of the Metropolitan North Georgia Water Planning District developed pursuant to Article 10 of this chapter shall conform to and be bound by the water planning regions' plans as to any river basins that lie in whole or in part within such district."

## PART II.

### SECTION 2-1.

Chapter 5 of Title 12 of the Official Code of Georgia Annotated, relating to water resources, is amended by revising Code Section 12-5-4, relating to rules and regulations relative to water conservation plans, as follows:

"12-5-4.

~~(a) The Board of Natural Resources shall adopt rules and regulations relating to the conduct, content, and submission of the water conservation plans required by Code Sections 12-5-31 and 12-5-96.~~

~~(b) The director of the Environmental Protection Division of the Department of Natural Resources shall appoint a task force to assist in the writing of the rules and regulations required by subsection (a) of this Code section. The task force shall have 12 members. Three members shall represent the business and industry community, three shall represent the agriculture industry, three shall represent local governments, and three shall represent environmental and citizens groups. The members of the task force shall serve without compensation or reimbursement of expenses. The task force shall disband upon the adoption by the Board of Natural Resources of the rules and regulations provided for in subsection (a) of this Code section. Reserved.~~

**SECTION 2-2.**

Said chapter is further amended by revising subsection (e) of Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters generally and for farm use, as follows:

"(e) Subject to subsection (g) of this Code section, the Board of Natural Resources shall by rule or regulation establish a reasonable system of classification for application in situations involving competing uses, existing or proposed, for a supply of available surface waters. Such classifications shall be based upon but not necessarily limited to the following factors:

(1) The number of persons using the particular water source and the object, extent, and necessity of their respective withdrawals, diversions, or impoundments;

(2) The nature and size of the water source;

(3) The physical and chemical nature of any impairment of the water source adversely affecting its availability or fitness for other water uses;

(4) The probable severity and duration of such impairment under foreseeable conditions;

(5) The injury to public health, safety, or welfare which would result if such impairment were not prevented or abated;

(6) The kinds of businesses or activities to which the various uses are related and the economic consequences;

(7) The importance and necessity of the uses, including farm uses, claimed by permit applicants and the extent of any injury or detriment caused or expected to be caused to other water uses;

(8) Diversion from or reduction of flows in other watercourses in accordance with any state-wide water plan under Article 8 of this chapter;

(9) The prior investments of any person in lands, and plans for the usage of water in connection with such lands which plans have been submitted to the director within a reasonable time after July 1, 1977, or, if for farm uses, after July 1, 1988; provided, however, that the granting of such permit shall not have unreasonably adverse effects upon other water uses in the area, including potential as well as present use; and

(10) The varying circumstances of each case."

**SECTION 2-3.**

Said chapter is further amended by revising subsection (h) of Code Section 12-5-31, relating to permits for withdrawal, diversion, or impoundment of surface waters generally and for farm use, as follows:

"(h) Except for applications filed pursuant to paragraph (3) of subsection (a) of this Code section, permits may be granted for any period of time not less than ten years, unless the

1 applicant requests a shorter period of time, nor more than 50 years. The director may base  
 2 the duration of such permits on any reasonable system of classification based upon but not  
 3 necessarily limited to such factors as source of supply and type of use. In evaluating any  
 4 application for a permit for the use of water ~~for a period of 25 years or more~~, the director  
 5 shall evaluate the condition of the water supply to assure that the supply is adequate to  
 6 meet the multiple needs of the citizens of the state as can reasonably be projected for the  
 7 term of the permit and ensure that the issuance of such permit is based upon a water  
 8 development and conservation ~~plan~~ plans for the applicant ~~or~~ and for the region in  
 9 accordance with Article 8 of this chapter. Such water development and conservation ~~plan~~  
 10 plans for the applicant ~~or~~ and for the region shall promote the conservation and reuse of  
 11 water within the state, guard against a shortage of water within the state, promote the  
 12 efficient use of the water resource, and be consistent with the public welfare of the state,  
 13 in accordance with Article 8 of this chapter. The board shall promulgate regulations for  
 14 implementation of this subsection, including provisions for review of such permits  
 15 periodically or upon a substantial reduction in average annual volume of the water resource  
 16 which adversely affects water supplies to determine that the permittee continues in  
 17 compliance with the conditions of the permit and that the plan continues to meet the overall  
 18 supply requirements for the term of the permit. ~~In the event the director determines that~~  
 19 ~~a regional plan is required in connection with any application for a permit for the use of~~  
 20 ~~water for a period of 25 years or more, the division or a person or entity designated by the~~  
 21 ~~division may develop such a plan. Regional water plans shall be developed in accordance~~  
 22 with Article 8 of this chapter. Such regional ~~plan~~ plans shall include water development,  
 23 conservation, and sustainable use and shall be based upon detailed scientific analysis of the  
 24 water source, the projected future condition of the resource, current demand, and estimated  
 25 future demands on the resource, in accordance with Article 8 of this chapter."

#### SECTION 2-4.

26  
 27 Said chapter is further amended by revising subsection (n) of Code Section 12-5-31, relating  
 28 to permits for withdrawal, diversion, or impoundment of surface waters generally and for  
 29 farm use, as follows:

30 "(n) In the consideration of applications for permits which if granted would authorize the  
 31 withdrawal and transfer of surface waters across natural basins, the director shall be bound  
 32 by any factors related thereto pursuant to Article 8 of this chapter and the following  
 33 requirements:

34 (1) The director shall give due consideration to competing existing uses and applications  
 35 for permits which would not involve interbasin transfers of surface water and, subject to

1 subsection (e) of this Code section, shall endeavor to allocate a reasonable supply of  
2 surface waters to such users and applicants; and

3 (2) The director shall provide a press release regarding the proposed issuance of all  
4 permits authorizing such interbasin transfer of surface waters to newspapers of general  
5 circulation in all areas of the state which would be affected by such issuance. The press  
6 release shall be provided at least seven days before the issuance of these permits. If the  
7 director should determine that sufficient public interest warrants a public hearing on the  
8 issuance of these permits, he or she shall cause such a hearing to be held ~~some where in~~  
9 within the area affected prior to the issuance of these permits."

#### 10 SECTION 2-5.

11 Said chapter is further amended by revising subsection (d) of Code Section 12-5-96, relating  
12 to permits to withdraw, obtain, or use ground water, as follows:

13 "(d) In adopting any regulations pursuant to Code Section 12-5-95 and in considering  
14 permit applications, revocations, or modifications under this Code section, the Board of  
15 Natural Resources or the division shall consider:

16 (1) The number of persons using an aquifer and the object, extent, and necessity of their  
17 respective withdrawals or uses;

18 (2) The nature and size of the aquifer;

19 (3) The physical and chemical nature of any impairment of the aquifer adversely  
20 affecting its availability or fitness for other water uses, including public use;

21 (4) The probable severity and duration of such impairment under foreseeable conditions;

22 (5) The injury to public health, safety, or welfare which would result if such impairment  
23 were not prevented or abated;

24 (6) The kinds of businesses or activities to which the various uses are related;

25 (7) The importance and necessity of the uses, including farm uses, claimed by permit  
26 applicants under this Code section, or of the water uses of the area under Code  
27 Section 12-5-95, and the extent of any injury or detriment caused or expected to be  
28 caused to other water uses, including public use;

29 (8) Diversion from or reduction of flows in other watercourses or aquifers in accordance  
30 with any state-wide water plan under Article 8 of this chapter;

31 (9) A regional water development conservation and sustainable use plan, where  
32 applicable; and

33 (10) Any other relevant factors."

**SECTION 2-6.**

Said chapter is further amended by revising subsection (e) of Code Section 12-5-96, relating to permits to withdraw, obtain, or use ground water, as follows:

"(e) ~~The division or a party designated by the division may develop a regional~~ Regional water development and conservation ~~plan~~ plans for the state's major aquifers or any portion thereof shall be developed in accordance with Article 8 of this chapter. Such ~~plan~~ plans shall include water development, conservation, and sustainable use and shall be based on detailed scientific analysis of the aquifer, the projected future condition of the aquifer, and current demand and estimated future demands on the aquifer, in accordance with Article 8 of this chapter. Such ~~plan~~ plans shall serve to promote the conservation and reuse of water within the state, guard against a shortage of water within the state and each region, and promote the efficient use of the water resource and shall be consistent with the general welfare and public interest of the state as provided in Code Section 12-5-91, in accordance with Article 8 of this chapter. Upon adoption of a regional plan, all permits issued by the division shall be consistent with such plan. The term of any permit and all provisions of any permit for which an application for renewal is made prior to the completion of any regional plan shall be extended at least until the completion of such plan. Applications for new permits shall be subject to review by the division and the division may issue such permits as appropriate pending completion of a regional plan."

**PART III.****SECTION 3-1.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

**SECTION 3-2.**

All laws and parts of laws in conflict with this Act are repealed.